

II. REMARKS

By this amendment claim 1 has been amended and claims 9 and 10 have been added. As a result, claims 1-10 are pending in this application. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, claims 1-8 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Zoltan (U.S. Patent No. 6,529,917), hereafter “Zoltan.” Applicants respectfully traverse this rejection.

A. RESPONSE TO EXAMINER’S REMARKS REGARDING 1.131 DECLARATION

Initially, Applicants continue to respectfully traverse the Office’s conclusion that the declaration and the evidence submitted by Applicants fail to prove that the claimed system was conceived prior to August 14, 2000. Rather, Applicants submit that the MPEP does not require proof beyond all doubt, but instead, requires that Applicants establish a *prima facie* case. To this end, Applicants, in their declaration and exhibits, set forth facts that show that Applicants conceived of the invention and reduced it to practice prior to the date of the Zoltan reference, or, in the alternative, exercised diligence from before the date of the Zoltan reference to the reduction to practice.

This evidentiary showing includes a declaration that contains factual assertions by Applicants that attest to the facts alleged by Applicants. Furthermore, the assertions in Applicants' declaration are supported by the exhibits submitted therewith and referred to therein, for example, Exhibit A, section 2, Cross Reference Function. Specifically, the "LDAP directory that maintains a logical symbolic application name and the physical location of the message routing so that changes to system topology can be more easily implemented," of Exhibit A, section 2.1 LDAP, supports "...a table of keys for synchronizing related data elements between a first and second storage system." Furthermore, the Global Unique Identifier (GUID) as the unique number EID internal key field of Exhibit A, section 2.2. supports the limitation "...a universal identifier corresponding to a data element in the first and second storage system." In addition, the "...key information for party, policy and claim...[that] allows applications to obtain important information about records that belong to other systems within EID," of Exhibit A, section 2, supports the limitations "...a first record identifier corresponding to the data element in the first storage system; and a second record identifier corresponding to the data element stored in the second storage system, wherein the universal identifier, the first record identifier and the second record identifier are used to synchronize the data element between the first and second storage system." Exhibit B further supports these limitations.

Applicants understand that the Office has reservations about accepting the Exhibits as being dispositive, given the modification dates in the Exhibits that are after that of the Office's reference. However, Applicants point out that the references, while they may not provide proof beyond all doubt, do establish conception dates prior to the August 14, 2000 priority date of the

Zoltan reference. Specifically, the original date of the Exhibit B disclosure is August 14, 2000, while the documentation of Exhibit A that references the claimed invention that is described in the disclosure has an original date of July 17, 2000. Although Exhibit A has several update dates, the latest of which is August 11, 2004, one can easily distinguish using the editing marks, the original content, including that pertaining to the claimed invention, from that which was added later. As stated before, the examiner must consider all of the evidence presented in its entirety, including the affidavits or declarations and all accompanying exhibits, records and “notes.” MPEP 715.07. Accordingly, Applicants submit that the declaration and exhibits, taken in their entirety prove a *prima facie* case of both conception and diligence to reduction to practice.

In the alternative, Applicants submit that “...an accompanying exhibit need not support all claimed limitations, provided that any missing limitation is supported by the declaration itself.” *Ex parte Ovshinsky*, 10 USPQ2d 1075 (Bd. Pat. App. & Inter. 1989).” MPEP 715.07. For the above stated reasons, the above-referenced 35 U.S.C. §103(a) rejection of claims 1-8 based on the reference of Zoltan is improper and should be withdrawn. Accordingly, Applicants submit that all claims are allowable and respectfully request that the Office withdraw its rejections.

B. REJECTION OF CLAIMS 1-8 OVER ZOLTAN

With regard to the 35 U.S.C. §103(a) rejections over Zoltan, Applicants assert that Zoltan does not teach or suggest each and every feature of the claimed invention. For example, with

respect to independent claim 1, Applicants submit that Zoltan fails to teach or suggest that the table of keys is separate from the first storage system and the second storage system. Instead, the key and identifier columns of Zoltan that the Office equates with the table of keys of the claimed invention, rather than being separate from the Zoltan databases, are included in them. In contrast, the claimed invention includes "...wherein the table of keys is separate from the first storage system and the second storage system." Claim 1. As such, the table of keys of the claimed invention, rather than being included in the databases, as are the key and identifier columns of Zoltan, is separate from the first storage system and the second storage system. Thus, the table of keys of the claimed invention are not taught or suggested by the key and identifier columns of Zoltan. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

With further respect to independent claim 1, Applicants submit that Zoltan fails to teach a table of keys for synchronizing related data elements between a first and second storage system, each key comprising: a universal identifier corresponding to a data element in the first and second storage system; a first record identifier corresponding to the data element in the first storage system; and a second record identifier corresponding to the data element stored in the second storage system. The Office equates the first record identifier of the claimed invention with the identifier column for the master table of Zoltan (Col. 3, lines 43-45) and the second record identifier of the claimed invention with the identifier column included in each secondary table of Zoltan. Col. 5, lines 42-43. The Office admits that the identifier columns of Zoltan are not elements of a single key as claimed but are instead included in separate tables. Office

Action, page 3, lines 10-11. Instead, the Office states that it would have been obvious for a person with ordinary skill in the art at the time the invention was made to incorporate different elements in a single key in a table because it provides single tables with multiple identification keys that improves processing performance by reducing time to search multiple tables. Id, lines 12-15.

Applicants assert that the Office's factual assertion is unsubstantiated by the reference itself and, as such, amounts to Official Notice. Applicants further assert that the Office's factual assertion is not properly based upon common knowledge. For example, a combination of the identifier columns of Zoltan into a single key in the master table of Zoltan, as suggested by the Office, is counterintuitive, as it would leave the second table with nothing to match it with the first. Accordingly, Applicants respectfully request that the Office support the finding with references that show these features or withdraw the rejection.

With regard to newly added claim 9, Applicants respectfully submit that Zoltan fails to teach or suggest that the first storage system is designed to store first data related to the data element, the first storage system is designed to store second data related to the data element, and the first data is designed to be different from the second data. This claim is supported, *inter alia*, by page 1, lines 13-20; page 13, lines 13-17; Fig. 1. of Applicants' original specification. In contrast, Zoltan teaches that its invention is for synchronizing replicated data that consists of copies of a particular body of data. Col. 1, lines 31-32. To this extent, Zoltan does not teach or suggest that the data in one of its databases is designed to be different from the data in another of its databases. Accordingly, Applicants submit that this claim, *inter alia*, is in condition for

allowance.

With regard to newly added claim 10, Applicants respectfully submit that Zoltan does not teach or suggest that the first and second storage system do not separately maintain information for synchronizing the first and second storages system with each other. This limitation is supported, *inter alia*, by page 18, lines 19-22 of Applicants' original specification. In contrast, both the master table and the replicated tables of Zoltan include information that is for synchronizing the tables, namely, the identifier columns of each. Accordingly, Applicants respectfully submit that claim 10 is allowable as currently constituted.

With regard to the Office's arguments regarding dependent claims, Applicants herein incorporate the arguments presented above with respect to the independent claim listed above. In addition, Applicants submit that all dependant claims are allowable based on their own distinct features. However, for brevity, Applicants will forego addressing each of these rejections individually, but reserve the right to do so should it become necessary. Accordingly, Applicants respectfully request that the Office withdraw its rejections.

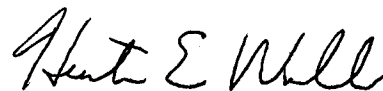
III. CONCLUSION

In addition to the above arguments, Applicants submit that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicants do not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicants do not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such

combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicants reserve the right to present such arguments in a later response should one be necessary.

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,



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